



Signed and Filed: November 15, 2019

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Debtors.)
Date: December 10, 2019
☐ Affects PG&E Corporation) Time: 10:00 AM
☐ Affects Pacific Gas and) Place: Courtroom 17
Electric Company) 450 Golden Gate Ave.
☒ Affects both Debtors) 16th Floor
San Francisco, CA
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

MEMORANDUM REGARDING CONFIRMATION ISSUES

The following identifies a number of issues for the further consideration about plan confirmation in the coming months.

1. For avoidance of doubt, the court disapproves the proposed confirmation timeline offered by the Senior Unsecured Noteholders ("Noteholders") (Dkt. No. 4373). The court is determined to have just one joint disclosure statement, and one

1 confirmation schedule, for the two competing plans. It rejects
2 the notion that terminating exclusivity compels consideration of
3 the Noteholders/TCC plan prior to consideration of the Debtors'
4 plan, particularly in light of the progress of that plan to
5 date. This is so whether or not the court approves the Amended
6 and Restated Restructuring Support Agreement (Dkt. No. 4554) in
7 the coming days.

8 2. Even if the Noteholders and TCC are correct that their
9 plan does not require an estimation of direct and subrogation
10 wildfire claims because of the proposed treatment of those
11 claims, they have not satisfactorily explained how the court
12 could ignore the impact of that treatment upon equity interests
13 in a solvent case. Whatever finding emerges from the estimation
14 by the district court after its proceedings and the Tubbs Fire
15 trial would necessarily affect the disposition of objections to
16 the Noteholders/TCC plan treatment of lower classes. How else
17 could the court ascertain whether their plan impermissibly
18 overpays either of the two classes of wildfire claimants?

19 Stated otherwise, the Noteholders/TCC plan does not
20 directly implicate the estimation of personal injury and
21 wrongful death claims "for purposes of distribution" (28 U.S.C.
22 § 157(b)(2)(B)). For their plan, the district court does not
23 need to deal with that issue. Nevertheless, the amount of those
24 same claims has to be known or valued for purposes of 11 U.S.C.
25 § 1129(b)(2)(C)(i). Whether it is called "estimation" or
26 "valuation", the inquiry is the same. It makes no sense to have
27 the district court make the estimation as required under
28 Debtors' plan under 28 U.S.C. § 157 (b)(2)(B) and this court to

1 make the same determination under the competing plan for a
2 different purpose.

3 For these reasons, the court is of the view that the
4 district court should not be told that there is no need for an
5 estimation under the Noteholders/TCC plan, even though required
6 under the Debtors' plan. The more efficient approach is for
7 this court to amend its recommendation for withdrawal of the
8 reference (Dkt. No. 3648) to ask the district court to make its
9 estimation (valuation} decision for all purposes in these cases.
10 Before doing so, the court wants to hear from the parties.

11 3. In the next three weeks, principal counsel for the
12 Debtors, the two official committees and the Ad Hoc Noteholders
13 Committee and Ad Hoc Subrogation Claim Holders should meet and
14 confer in attempt to fashion an agreed timetable that is similar
15 to the Debtors' proposal (Dkt. No. 4388-1) but accelerates it as
16 much as possible.

17 They should also discuss just what the Disclosure Statement
18 to be disseminated to wildfire victims should look like. By the
19 time the district court's estimation decision is available, the
20 Disclosure Statement should be ready to go with a very short
21 explanation of the amount that has been "estimated", what that
22 amount represents to the voting claimants, what their vote means
23 and any other vitally important information the parties' counsel
24 believe they need. 11 U.S.C. § 1125(a) is very flexible in
25 directing what must be disclosed, keeping in mind the complexity
26 of the case and the benefit of providing additional information.
27 Also keep in mind the adage: KISS - Keep it Simple ***,
28 particularly for the victims

1 4. The court has already set a briefing schedule for
2 various legal issues. See, *Order Establishing Pre-Confirmation*
3 *Briefing and Hearing Schedule for Certain Legal Issues* (Dkt. No.
4 4540). Now it wants counsel to identify any other issues that
5 could be dealt with and perhaps briefed and argued before final
6 approval of any Disclosure Statement. For example, should the
7 court fix an early deadline for confirmation objections based on
8 the requirements of 11 U.S.C. § 1129(a)(1), (2), (3), (4), (5)
9 and (13)? There may be other issues that can be dealt with
10 early, reserving until later any challenges based on feasibility
11 (§ 1129(a)(11)) and other critical elements of the confirmation
12 process (e.g. § 1129(b)).

13 5. Counsel identified in Para. 3 should be prepared to
14 discuss these issues and any other they believe will facilitate
15 and simplify the confirmation process at a status conference on
16 December 10, 2019, at 10:00 AM.

17 ****END OF MEMORANDUM****